

SOIL CONSERVATION AND WATER QUALITY DIVISION[27]

Notice of Intended Action

Proposing rule making related to agricultural drainage wells and providing an opportunity for public comment

The Soil Conservation and Water Quality Division hereby proposes to amend Chapter 30, “Agricultural Drainage Wells—Alternative Drainage System Assistance Program,” and to rescind Chapter 101, “Organization and Purpose,” Chapter 102, “Rules of Practice,” Chapter 103, “Appointment and Terms of Members,” Chapter 104, “Local Watershed Improvement Committees,” Chapter 105, “Watershed Improvement Grant Program,” Chapter 106, “Watershed Improvement Fund,” and Chapter 107, “Public Records and Fair Information Practices,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 161A.4(1) and 460.303(3).

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 460.304(2)“a”(1)(b) and 2017 Iowa Acts, Senate File 510, sections 24 and 25.

Purpose and Summary

The proposed amendments allow for the closure of the last remaining registered agricultural drainage wells through the construction of wetlands with permanent easements as authorized by the Iowa Code. This option could be used if the wetland project would be more cost-effective than alternative drainage and if all project landowners agree. The 75 percent cost-share requirement authorized by rule would not apply. The proposed amendments also rescind the rules for the Watershed Improvement Review Board. The statutory provisions for the Board were repealed effective January 1, 2018.

Fiscal Impact

This rule making may have a positive fiscal impact to the State of Iowa because it could provide a more cost-effective alternative to closing a registered agricultural drainage well.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Division for a waiver of the discretionary provisions, if any, pursuant to 27—Chapter 8.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Division no later than 4:30 p.m. on May 1, 2018. Comments should be directed to:

Margaret Thomson
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Email: margaret.thomson@iowaagriculture.org

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend subrule 30.50(1) as follows:

30.50(1) *Cost-share rate.* ~~Cost-share~~ Except for the cost of wetland restoration projects with permanent easements, cost-share payments from the fund shall not exceed 75 percent of the estimated cost or 75 percent of the actual cost of the project, whichever is less.

ITEM 2. Adopt the following **new** paragraphs **30.50(2)“g”** and **“h”**:

g. Costs for the purchase of permanent easements for the wetland restoration if the easements are more cost-effective than the construction of alternative drainage systems and all directly impacted landowners agree to grant permanent easements.

h. Construction costs for wetland restoration projects with permanent easements include, but are not limited to:

- (1) Tile modifications.
- (2) Installation of water level maintenance structures.
- (3) Associated excavation, grading and seeding activities.

ITEM 3. Amend subrules 30.50(3) and 30.50(4) as follows:

30.50(3) *Project design and construction.* The alternative drainage system of the drainage district or the wetland restoration shall be designed to meet standard engineering practice ~~for drainage district improvements~~ and be approved by the division. Construction shall be in accordance with the design and standard construction practice for drainage district improvements or the wetland restoration.

30.50(4) *Noncrop acres Easement purchases.* ~~Noncrop acres within a designated agricultural drainage well area shall not be eligible to benefit from the program.~~ For projects where wetland restoration is completed, a permanent easement restricting active disturbance of the easement area including cropland and pasture uses shall be granted to the applicable soil and water conservation district. The value of the easement is determined by using the average farmland value per acre for all soil types as determined by the most recently published county land value survey developed by Iowa State University adjusted by the value of any existing easements on the land.

- ITEM 4. Rescind and reserve **27—Chapter 101.**
- ITEM 5. Rescind and reserve **27—Chapter 102.**
- ITEM 6. Rescind and reserve **27—Chapter 103.**
- ITEM 7. Rescind and reserve **27—Chapter 104.**
- ITEM 8. Rescind and reserve **27—Chapter 105.**
- ITEM 9. Rescind and reserve **27—Chapter 106.**
- ITEM 10. Rescind and reserve **27—Chapter 107.**